

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DAVID CARTER,

Plaintiff,

-v-

N.Y.C. CORRECTION OFFICER
DEMAITRE, SHIELD #4857,

Defendant.

USDS SDNY
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ELECTRONICALLY FILED
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DATE FILED: 1-30-13

No. 12 Civ. 7056 (RJS)
ORDER ADOPTING REPORT AND
RECOMMENDATION

RICHARD J. SULLIVAN, District Judge:

By Order dated November 19, 2012, the Court referred this case to Magistrate Judge Francis for general pretrial matters and dispositive motions, and on November 27, 2012, the referral of this matter was reassigned to Magistrate Judge Netburn. On January 17, 2013, *pro se* Plaintiff wrote to Judge Netburn, stating that he “no longer wish[es] to pursue” this matter and requesting that it be dismissed. On January 28, 2013, Judge Netburn issued a Report and Recommendation (the “Report”) responding to Plaintiff’s request. In her Report, Judge Netburn interpreted Plaintiff’s letter as requesting that the Court dismiss this case, pursuant to Federal Rule of Civil Procedure 41(a)(2), and recommended that this case be dismissed without prejudice, with leave to reopen the case within thirty days. The Court concurs with Judge Netburn’s recommendation and adopts the Report in its entirety.

Accordingly, IT IS HEREBY ORDERED that this case is dismissed, pursuant to Rule 41(a)(2), without prejudice or costs. However, within thirty days of the date of this Order, any

party may send a letter requesting to restore this action to the calendar of the undersigned. Upon receipt of such letter, this action will be restored.

SO ORDERED.

Dated: January 29, 2013
New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE

A copy of this Order Adopting Report and Recommendation has been sent to:

David Carter
DIN #12-A-5083
Downstate Correctional Facility
Box F
Red Schoolhouse Road
Fishkill, NY 12524-0445